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December 26, 1991

WRITER'S DIRECT DIAL NUMBER

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BY MESSENGER

Mr. Nan Gowda
United States EPA
77 West Jackson Boulevard
HSRL-6J
Chicago, IL 60604-3590

EPA Region 5 Records Ctr.



206986

Re: Lenz Oil Site, Lemont, Illinois
Remedial Investigation/Feasibility Study (RI/FS)
Phase II Work Plan - Parts A and B

Dear Mr. Gowda:

By now you should have received a copy of Illinois EPA Project Manager Tracy Fitzgerald's letter to me dated December 24, 1991. In that letter, Mr. Fitzgerald details Illinois EPA's objections to and need for clarification regarding your comments on Phase II Part B of the RI/FS Work Plan. I received your comments on Monday, December 16, 1991. For your convenience, an additional copy of Mr. Fitzgerald's letter is attached hereto. As the representative for the Respondents, I hereby adopt by reference the Illinois EPA's objections and provide notice of a dispute pursuant to Article XIX of the Consent Order. I hope this dispute, which as a practical matter is between the two agencies, can be resolved quickly and I join Mr. Fitzgerald in requesting a conference between the parties.

For the record, I want to note that your latest comments contain additional sampling requirements which you did not raise in your previous comments to the Phase II Work Plan. It was my understanding, following the dispute resolution conference of October 2, 1991, that the Phase II Work Plan, which had originally been submitted on July 2, 1991, would be revised and resubmitted in accordance with your previous comments and our discussions at that meeting. It was absolutely not contemplated that the U.S. EPA would, upon receipt of the resubmission, take the opportunity to devise additional sampling requirements. To the contrary, all such additional requirements were supposed to have been on the table at the October 2, 1991 meeting, thus facilitating quick approval of the Work Plan upon its resubmission. I understand that, for timing purposes, the resubmission was to be treated as a

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first submission. However, I must repeat that this was not supposed to be an opportunity for your agency to require yet more sampling.

Finally, in discussing this matter with Mr. Fitzgerald, it has come to my attention that he never received a hard copy of your latest comments. He received only an unsigned facsimile which was impossible to read in some places, especially the hand written portions of table 1-3. He brought this omission to your attention last week, but still has not received a legible hard copy.

As stated above, I hope this can be resolved quickly. Pursuant to Section XIX of the Consent Order, I request that all time periods, including the deadline for submitting a final "approvable" Phase II Work Plan be extended for a period equal to the actual time taken to resolve this dispute. Because the dispute concerns only Part B of the Phase II Work Plan, we will be able to submit Part A to you on December 30, 1991. I have instructed John Imse and Dave Edwards of ERM to attempt to schedule a telephone conference between the parties as soon as possible. I tried to call you today to discuss this, but you were not in. I will try again to reach you tomorrow and on Monday. If you are available, I would like to have the telephone conference on Monday December 30, 1991. If a telephone conference is not feasible, or is held but fails to resolve this matter, a face to face meeting may be necessary.

Very truly yours,


Mark C. Furse

MCF/dhk
Enclosure

cc: Stuart Herish (by messenger)
Tracey E. Fitzgerald (by Federal Express)
Kurt Niebergall
Terry Ayers
David Edwards
John Imse